IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P.No.16366 of 1994

DATE OF ORDER: 14.3.2007

Bhagwan Singh

...Petitioner(s)

Versus

State of Haryana and Others

....Respondent(s)

CORUM : HON'BLE MR. JUSTICE M.M. AGGARWAL

.*.*.*.

Present: Mr. R.A. Sheoran, Advocate.

Mr. Jitender Chauhan, Addl.A.G, Haryana.

M.M. AGGARWAL,J

The petitioner, who was Conductor in the Haryana Roadways, had challenged letter dated 8.6.1992 issued by Accountant General (A&E), Haryana whereby he was refused pension since his service was less than 10 years. He had also prayed that pensionary benefits along with interest, ex-gratia grant, medical reimbursement and salary from 16.11.1990 to 31.8.1991 be got paid.

It comes out that the petitioner had developed a disability of the eyes and Civil Surgeon, Bhiwani had issued letter dated 16.11.1990 copy Annexure P-1 that he was unfit to perform his duties. Then the petitioner was retired from service w.e.f 23.8.1991 vide copy Annexure P-2 on his own request.

On behalf of the petitioner, it was argued that the petitioner was entitled to pension, then ex-gratia and medical reimbursement bills and salary from 16.11.1990 to 31.8.1991 upto the date of his retirement.

On behalf of the State, details of service rendered by the petitioner had been shown in the written reply. He had joined service on 17.9.1979 and was retired on 31.8.1991. However, during the service period either he had remained under suspension or remained absent from

duty for the period of two years,11 months and 28 days and his qualifying service was only 8 years, 11 months and 15 days and therefore he was not entitled to pension. It was stated that since from 14.8.1990 to 31.8.1991, petitioner remained absent, he was not entitled to salary also for the period from 16.11.1990 to 31.8.1991.

On behalf of the State, it was argued that disability was not attributed to the service and therefore petitioner could not be granted either special disability leave or benefits under Rule 8.124 and 8.125 of the Punjab Civil Services Rules as applicable to Haryana.

Counsel for the petitioner had relied on a Division Bench Judgment of this Court reported in Inder Singh v. State of Punjab and Others, 2003(3) SCT 347 and argued that when the petitioner is discharged on account of permanent disability, he is entitled to ex-gratia payment. It was argued that ex-gratia payment has been increased to Rs.25000/- vide letter of the Haryana Government copy Annexure P-6 dated 31.10.1985. As far as reimbursement is concerned, it was argued that bills of Rs.63,235/- had been submitted and even State had admitted in para 12 of the written reply that bills of Rs.5943.52 paise were pending with the State.

On behalf of the State, it was argued that reimbursement of the medical expenses of Rs.5943.52 paise was not possible as bills were submitted after three years of the expenditure incurred and as per instructions it should have been submitted within three months.

From para 12 of the written reply, it would come out that even State had admitted that the petitioner was entitled to medical reimbursement of bills of Rs.5943.52 paise. It had been averred by the State that he will be paid as soon as necessary sanction from the Head Office is received. This reply is dated 31.7.2004 and by this time, State should have finalized the matter and should have made payment of this amount. No objection to the late submission of bills of Rs.5943.52 paise can be taken as State had itself pleaded in the written statement that the petitioner is entitled to this amount and it will be paid.

Letter copy Annexure P-5, which provides ex-gratia grant, states that employee, who turn blind or become disabled, shall be entitled to ex-gratia payment. That has been increased to Rs.25000/- vide letter copy Annexure P-6.

Since the petitioner had not completed 10 years service and there is no evidence that disability was attributable to service rules 8.124 and 8.125 will not be applicable and petitioner would not be entitled to benefits of leave and pension.

However, as per rule 5.11 of the Punjab Civil Services Rules Volume II as applicable to Haryana, petitioner will be entitled to invalid pension. This has been held so in a Division Bench Judgment of this Court reported in Rashpal Kaur v. State of Punjab and Others, 1997(3) RSJ, P&H 181. For that invalid pension, it is not necessary that one should complete 10 years. It can be calculated on the basis of the service whatever rendered. As per Rule 5.11, that is to be normal family pension admissible under the Family Pension Scheme.

Under these circumstances, this petition is allowed to the extent that the petitioner shall be paid Rs.5943.52 paise as medical reimbursement and Rs.25000/- as ex-gratia payment and then will be paid invalid pension as per Rule 5.11 of the Punjab Civil Services Rules from the date of his retirement i.e 31.8.1991. Needful be done and payment be made within three months otherwise interest @ 8% on the arrears will be payable on delayed payments.

March 14 , 2007 (M.M. AGGARWAL)
manoj JUDGE